



Senate

General Assembly

File No. 529

February Session, 2008

Substitute Senate Bill No. 337

Senate, April 8, 2008

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING JUVENILE JUSTICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-120 of the 2008 supplement to the general
2 statutes, as amended by section 73 of public act 07-4 of the June special
3 session, is repealed and the following is substituted in lieu thereof
4 (*Effective January 1, 2010*):

5 The terms used in this chapter shall, in its interpretation and in the
6 interpretation of other statutes, be defined as follows: (1) "Child"
7 [means any person under sixteen years of age, except that for purposes
8 of delinquency matters and proceedings, "child"] means any person
9 (A) who is under eighteen years of age, [or] and has not been legally
10 emancipated, (B) who is eighteen years of age or older and who, prior
11 to attaining eighteen years of age, [has] was not legally emancipated
12 and committed a delinquent act, [and,] or (C) who, subsequent to
13 attaining eighteen years of age, [violates] violated any order of the
14 Superior Court or any condition of probation ordered by the Superior
15 Court with respect to [such] a delinquency proceeding; (2) "youth"

16 means any person sixteen or seventeen years of age who has not been
17 legally emancipated; (3) "abused" means that a child or youth (A) has
18 been inflicted with physical injury or injuries other than by accidental
19 means, (B) has injuries that are at variance with the history given of
20 them, or (C) is in a condition that is the result of maltreatment,
21 including, but not limited to, malnutrition, sexual molestation or
22 exploitation, deprivation of necessities, emotional maltreatment or
23 cruel punishment; (4) a child may be found "mentally deficient" who,
24 by reason of a deficiency of intelligence that has existed from birth or
25 from early age, requires, or will require, for such child's protection or
26 for the protection of others, special care, supervision and control; (5) a
27 child, other than a youth, may be convicted as "delinquent" who has
28 [violated] (A) violated any federal or state law, [other than the
29 commission of (i) an infraction or violation by a youth under
30 subsection (b) of section 51-164n, or (ii) a motor vehicle violation by a
31 youth for which a sentence to a term of imprisonment may be
32 imposed, (B) any order of the Superior Court, except as provided in
33 section 46b-148, or (C) conditions of probation as ordered by the court;
34 (6)] or municipal or local ordinance, except an ordinance regulating
35 behavior of a child in a family with service needs, (B) wilfully failed to
36 appear in response to a summons under section 46b-133 of the 2008
37 supplement to the general statutes, as amended by this act, or at any
38 other court hearing of which the child had notice, (C) violated any
39 order of the Superior Court, except as provided in section 46b-148, or
40 (D) violated conditions of probation as ordered by the court; (6) a
41 youth may be convicted as "delinquent" who has (A) violated any
42 federal or state law, other than an infraction, violation, motor vehicle
43 offense or violation, or violation of a municipal or local ordinance,
44 except an ordinance regulating behavior of a child in a family with
45 service needs, (B) wilfully failed to appear in response to a summons
46 under section 46b-133 of the 2008 supplement to the general statutes,
47 as amended by this act, or at any other court hearing of which the
48 youth had notice, (C) violated any order of the Superior Court, except
49 as provided in section 46b-148, or (D) violated conditions of probation
50 as ordered by the court; (7) a child or youth may be found "dependent"

51 whose home is a suitable one for the child or youth, except for the
52 financial inability of the child's or youth's parents, parent or guardian,
53 or other person maintaining such home, to provide the specialized care
54 the condition of the child or youth requires; [(7)] (8) "family with
55 service needs" means a family that includes a child or youth who (A)
56 has without just cause run away from the parental home or other
57 properly authorized and lawful place of abode, (B) is beyond the
58 control of the child's or youth's parent, parents, guardian or other
59 custodian, (C) has engaged in indecent or immoral conduct, (D) is a
60 truant or habitual truant or who, while in school, has been
61 continuously and overtly defiant of school rules and regulations, or (E)
62 is thirteen years of age or older and has engaged in sexual intercourse
63 with another person and such other person is thirteen years of age or
64 older and not more than two years older or younger than such child or
65 youth; [(8)] (9) a child or youth may be found "neglected" who (A) has
66 been abandoned, (B) is being denied proper care and attention,
67 physically, educationally, emotionally or morally, (C) is being
68 permitted to live under conditions, circumstances or associations
69 injurious to the well-being of the child or youth, or (D) has been
70 abused; [(9)] (10) a child or youth may be found "uncared for" who is
71 homeless or whose home cannot provide the specialized care that the
72 physical, emotional or mental condition of the child or youth requires.
73 For the purposes of this section, the treatment of any child or youth by
74 an accredited Christian Science practitioner, in lieu of treatment by a
75 licensed practitioner of the healing arts, shall not of itself constitute
76 neglect or maltreatment; [(10)] (11) "delinquent act" means [the
77 violation of any federal or state law, or the violation of any order of the
78 Superior Court, other than the commission of (A) an infraction or
79 violation by a youth under subsection (b) of section 51-164n, or (B) a
80 motor vehicle violation by a youth for which a sentence to a term of
81 imprisonment may be imposed; (11)] (A) the violation, by a child other
82 than a youth, of any federal or state law or municipal or local
83 ordinance, except an ordinance regulating behavior of a child in a
84 family with service needs, (B) the violation by a youth of any federal or
85 state law, other than an infraction, violation, motor vehicle offense or

86 violation, or violation of a municipal or local ordinance, except an
87 ordinance regulating behavior of a child in a family with service needs,
88 (C) wilful failure to appear in response to a summons under section
89 46b-133 of the 2008 supplement to the general statutes, as amended by
90 this act, or at any other court hearing of which the child or youth has
91 notice, (D) the violation of any order of the Superior Court, except as
92 provided in section 46b-148, or (E) the violation of conditions of
93 probation as ordered by the court; (12) "serious juvenile offense" means
94 (A) the violation of, including attempt or conspiracy to violate, (i)
95 section 21a-277, 21a-278 of the 2008 supplement to the general statutes,
96 29-33, 29-34, 29-35, subdivisions (2) and (3) of subsection (a) of section
97 53-21 of the 2008 supplement to the general statutes, 53-80a, 53-202b,
98 53-202c, [53-390 to 53-392, inclusive,] 53a-54a to 53a-56a, inclusive,
99 53a-59 to 53a-60c, inclusive, 53a-70 to 53a-71, inclusive, 53a-72b, 53a-86,
100 53a-92 to 53a-94a, inclusive, [53a-95,] 53a-101, 53a-102a, 53a-103a or
101 53a-111 to 53a-113, inclusive, subdivision (1) of subsection (a) of
102 section 53a-122, subdivision (3) of subsection (a) of section 53a-123,
103 section 53a-134, 53a-135, 53a-136a, [53a-166 or] 53a-167c, subsection (a)
104 of section 53a-174, or section 53a-196a of the 2008 supplement to the
105 general statutes, 53a-211, 53a-212, 53a-216 or 53a-217b, by a child, or
106 (ii) section 53a-56b or 53a-57 by a child under sixteen years of age, or
107 (B) running away, without just cause, from any secure placement other
108 than home while referred as a delinquent child to the Court Support
109 Services Division or committed as a delinquent child to the
110 Commissioner of Children and Families for a serious juvenile offense;
111 [(12)] (13) "serious juvenile offender" means any child convicted as
112 delinquent for the commission of a serious juvenile offense; [(13)] (14)
113 "serious juvenile repeat offender" means any child charged with the
114 commission of any felony if such child has previously been convicted
115 as delinquent or otherwise convicted at any age for two violations of
116 any provision of title 21a, 29, 53 or 53a that is designated as a felony;
117 [(14)] (15) "alcohol-dependent" means a psychoactive substance
118 dependence on alcohol as that condition is defined in the most recent
119 edition of the American Psychiatric Association's "Diagnostic and
120 Statistical Manual of Mental Disorders"; and [(15)] (16) "drug-

121 dependent" means a psychoactive substance dependence on drugs as
122 that condition is defined in the most recent edition of the American
123 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
124 Disorders". No child shall be classified as drug dependent who is
125 dependent (A) upon a morphine-type substance as an incident to
126 current medical treatment of a demonstrable physical disorder other
127 than drug dependence, or (B) upon amphetamine-type, ataractic,
128 barbiturate-type, hallucinogenic or other stimulant and depressant
129 substances as an incident to current medical treatment of a
130 demonstrable physical or psychological disorder, or both, other than
131 drug dependence.

132 Sec. 2. Section 46b-133 of the 2008 supplement to the general
133 statutes, as amended by section 85 of public act 07-4 of the June special
134 session, is repealed and the following is substituted in lieu thereof
135 (*Effective January 1, 2010*):

136 (a) Nothing in this part shall be construed as preventing the arrest of
137 a child, with or without a warrant, as may be provided by law, or as
138 preventing the issuance of warrants by judges in the manner provided
139 by section 54-2a, except that no child shall be taken into custody on
140 such process except on apprehension in the act, or on speedy
141 information, or in other cases when the use of such process appears
142 imperative. Whenever a child is arrested and charged with a crime,
143 such child may be required to submit to the taking of his photograph,
144 physical description and fingerprints. Notwithstanding the provisions
145 of section 46b-124 of the 2008 supplement to the general statutes, the
146 name, photograph and custody status of any child arrested for the
147 commission of a capital felony or class A felony may be disclosed to
148 the public.

149 (b) Whenever a child is brought before a judge of the Superior
150 Court, such judge shall immediately have the case proceeded upon as
151 a juvenile matter. Such judge may admit the child to bail or release the
152 child in the custody of the child's parent or parents, the child's
153 guardian or some other suitable person to appear before the Superior

154 Court when ordered. If detention becomes necessary, such detention
155 shall be in the manner prescribed by this chapter, provided the child
156 shall be placed in the least restrictive environment possible in a
157 manner consistent with public safety.

158 (c) Upon the arrest of any child by an officer, such officer may (1)
159 release [him] the child to the custody of [his] the child's parent or
160 parents, guardian or some other suitable person or agency, (2) at the
161 discretion of the officer, release the child to the child's own custody, or
162 [may] (3) immediately turn [him] the child over to a juvenile detention
163 center. When a child is arrested for the commission of a delinquent act
164 and the child is not placed in detention or referred to a diversionary
165 program, an officer shall serve a written complaint and summons on
166 the child and [his] the child's parent, guardian or [other person having
167 control of the child] some other suitable person or agency. If such child
168 is released to the child's own custody, the officer shall make reasonable
169 efforts to serve a written complaint and summons on the parent or
170 guardian or some other suitable person or agency before the court date
171 on the summons. Such parent, guardian or other person shall execute a
172 written promise to appear in court at the time and place specified in
173 such summons. If any person so summoned wilfully fails to appear in
174 court at the time and place so specified, the court may issue a warrant
175 for the child's arrest or a capias to assure the appearance in court of
176 such parent, guardian or other person. If a child wilfully fails to appear
177 in response to such a summons, the court may order such child taken
178 into custody and such child may be charged with the delinquent act of
179 failure to appear under section 46b-120 of the 2008 supplement to the
180 general statutes, as amended by this act. The court may punish for
181 contempt, as provided in section 46b-121 of the 2008 supplement to the
182 general statutes, any parent, guardian or other person so summoned
183 who wilfully fails to appear in court at the time and place so specified.

184 (d) The court or detention supervisor may turn such child over to a
185 youth service program created for such purpose, if such course is
186 practicable, or such child may be detained pending a hearing which
187 shall be held on the business day next following [his] the child's arrest.

188 No child shall be detained after such hearing or held in detention
189 pursuant to a court order unless it appears from the available facts that
190 there is probable cause to believe that the child has committed the acts
191 alleged, there is no less restrictive alternative available and that there is
192 (1) a strong probability that the child will run away [prior to] before
193 court hearing or disposition, (2) a strong probability that the child will
194 commit or attempt to commit other offenses injurious to [him] the
195 child or to the community before court disposition, (3) probable cause
196 to believe that the child's continued residence in [his] the child's home
197 pending disposition [will not safeguard the best interests of the child
198 or the community] poses a risk to the child or the community because
199 of the serious and dangerous nature of the act or acts [he] the child is
200 alleged to have committed, (4) a need to hold the child for another
201 jurisdiction, [or] (5) a need to hold the child to assure [his] the child's
202 appearance before the court, in view of [his] the child's previous
203 failure to respond to the court process, or (6) the child has violated one
204 or more of the conditions of a suspended detention order. Such
205 probable cause may be shown by sworn affidavit in lieu of testimony.
206 No child shall be released from detention who is alleged to have
207 committed a serious juvenile offense except by order of a judge of the
208 Superior Court. In no case shall a child be confined in a community
209 correctional center or lockup, or in any place where adults are or may
210 be confined, except in the case of a nursing infant; nor shall any child
211 at any time be held in solitary confinement. When a female child is
212 held in custody, she shall, as far as possible, be in the charge of a
213 woman attendant.

214 (e) The police officer who brings a child into detention shall have
215 first notified, or made a reasonable effort to notify, the parents or
216 guardian of the child in question of the intended action and shall file at
217 the detention center a signed statement setting forth the alleged
218 delinquent conduct of the child. Unless the arrest was for a serious
219 juvenile offense, or an order not to release is noted on the take into
220 custody order, arrest warrant or order to detain, the child may be
221 released by a detention supervisor to the custody of his parent or
222 parents, guardian or some other suitable person or agency.

223 (f) In conjunction with any order of release from detention the court
224 may, when it has reason to believe a child is alcohol-dependent or
225 drug-dependent as defined in section 46b-120 of the 2008 supplement
226 to the general statutes, as amended by this act, and where necessary,
227 reasonable and appropriate, order the child to participate in a program
228 of periodic alcohol or drug testing and treatment as a condition of such
229 release. The results of any such alcohol or drug test shall be admissible
230 only for the purposes of enforcing the conditions of release from
231 detention.

232 (g) Whenever the population of a juvenile detention center equals or
233 exceeds the maximum capacity for such center, as determined by the
234 Judicial Department, the detention supervisor in charge of intake shall
235 only admit a child who: (1) Is charged with the commission of a
236 serious juvenile offense, (2) is the subject of an order to detain or an
237 outstanding court order to take such child into custody, (3) is ordered
238 by a court to be held in detention, or (4) is being transferred to such
239 center to await a court appearance.

240 Sec. 3. Subsection (b) of section 46b-140 of the 2008 supplement to
241 the general statutes, as amended by section 79 of public act 07-4 of the
242 June special session, is repealed and the following is substitute in lieu
243 thereof (*Effective January 1, 2010*):

244 (b) Upon conviction of a child as delinquent, the court [:(1) May (A)
245 place] may: (1) Place the child in the care of any institution or agency
246 which is permitted by law to care for children; [(B)] (2) order the child
247 to participate in an alternative incarceration program; [(C)] (3) order
248 the child to participate in a wilderness school program operated by the
249 Department of Children and Families; [(D)] (4) order the child to
250 participate in a youth service bureau program; [(E)] (5) place the child
251 on probation; [(F)] (6) order the child or the parents or guardian of the
252 child or both to make restitution to the victim of the offense in
253 accordance with subsection (d) of this section; [(G)] (7) order the child
254 to participate in a program of community service in accordance with
255 subsection (e) of this section; or [(H)] (8) withhold or suspend

256 execution of any judgment. [; and (2) shall impose the penalty
257 established in subsection (b) of section 30-89, for any violation of said
258 subsection (b).]

259 Sec. 4. Subsection (g) of section 46b-140 of the 2008 supplement to
260 the general statutes is repealed and the following is substituted in lieu
261 thereof (*Effective January 1, 2010*):

262 (g) Any child or youth coming within the jurisdiction of the court,
263 who is found to be mentally ill, may be committed by said court to the
264 Commissioner of Children and Families and, if the court convicts a
265 child as delinquent and finds such child to be mentally deficient, it
266 may commit such child to an institution for mentally deficient children
267 or youth or delinquents. Whenever it is found that a child who is
268 fourteen years of age or older and convicted [by the court] as
269 delinquent or adjudged [by the court] to be a member of a family with
270 service needs [who is fourteen years of age or older] would [not benefit
271 from continued school attendance] benefit from a work-study program
272 or employment with or without continued school attendance, the court
273 may, [order] as a condition of probation or supervision, authorize such
274 child to be [placed on vocational probation if such court finds that such
275 child may properly be] employed for part or full-time at some useful
276 occupation [and] that [such employment] would be favorable to such
277 child's welfare, and the probation officer shall supervise such
278 employment. For the purposes of this section, the limitations of
279 subsection (a) of section 31-23 on the employment of minors under the
280 age of sixteen years shall not apply for the duration of such
281 [vocational] probation or supervision.

282 Sec. 5. Section 46b-146 of the 2008 supplement to the general
283 statutes, as amended by section 80 of public act 07-4 of the June special
284 session, is repealed and the following is substituted in lieu thereof
285 (*Effective January 1, 2010*):

286 Whenever any child has been [found to be] convicted as delinquent,
287 [or] has been adjudicated a [member of] child in a family with service
288 needs, or has signed a statement of responsibility admitting to having

289 committed a delinquent act, [or being a member of a family with
290 service needs,] and has subsequently been discharged from the
291 supervision of the Superior Court or from the custody of the
292 Department of Children and Families or from the care of any other
293 institution or agency to whom the child has been committed by the
294 court, such child, or the child's parent or guardian, may file a petition
295 with the Superior Court. [and, if] If such court finds (1) that at least
296 two years or, in the case of a child convicted as delinquent for the
297 commission of a serious juvenile offense, four years have elapsed from
298 the date of such discharge, (2) that no subsequent juvenile proceeding
299 [has been instituted] or adult criminal proceeding is pending against
300 such child, (3) that such child has not been [found guilty of a crime]
301 convicted of a delinquent act that would constitute a felony or
302 misdemeanor if committed by an adult during such two or four-year
303 period, (4) that such child has not been convicted as an adult of a
304 felony or misdemeanor during such two or four-year period, and (5)
305 that such child has reached [sixteen] eighteen years of age, [within
306 such period,] it shall order all police and court records pertaining to
307 such child to be erased. Upon the entry of such an erasure order, all
308 references including arrest, complaint, referrals, petitions, reports and
309 orders, shall be removed from all agency, official and institutional files,
310 and a finding of delinquency or that the child was a member of a
311 family with service needs shall be deemed never to have occurred. The
312 persons in charge of such records shall not disclose to any person
313 information pertaining to the record so erased, except that the fact of
314 such erasure may be substantiated where, in the opinion of the court, it
315 is in the best interests of such child to do so. No child who has been the
316 subject of such an erasure order shall be deemed to have been arrested
317 ab initio, within the meaning of the general statutes, with respect to
318 proceedings so erased. Copies of the erasure order shall be sent to all
319 persons, agencies, officials or institutions known to have information
320 pertaining to the delinquency or family with service needs proceedings
321 affecting such child. Whenever a child is dismissed as not delinquent
322 or as not being a member of a family with service needs, all police and
323 court records pertaining to such charge shall be ordered erased

324 immediately, without the filing of a petition. Nothing in this section
325 shall prohibit the court from granting a petition to erase a child's
326 records on a showing of good cause, after a hearing, prior to the time
327 when such records could be erased.

328 Sec. 6. Section 46b-150d of the general statutes is repealed and the
329 following is substituted in lieu thereof (*Effective January 1, 2010*):

330 An order that a minor is emancipated shall have the following
331 effects: (1) The minor may consent to medical, dental or psychiatric
332 care, without parental consent, knowledge or liability; (2) the minor
333 may enter into a binding contract; (3) the minor may sue and be sued
334 in such minor's own name; (4) the minor shall be entitled to such
335 minor's own earnings and shall be free of control by such minor's
336 parents or guardian; (5) the minor may establish such minor's own
337 residence; (6) the minor may buy and sell real and personal property;
338 (7) the minor may not thereafter be the subject of (A) a petition under
339 section 46b-129 of the 2008 supplement to the general statutes as an
340 abused, dependent, neglected or uncared for child or youth, (B) a
341 petition under section 46b-128 or 46b-133 of the 2008 supplement to the
342 general statutes, as amended by this act, as a delinquent child or
343 youth, or (C) a petition under section 46b-149 of the 2008 supplement
344 to the general statutes, as a child or youth in a family with service
345 needs; (8) the minor may enroll in any school or college, without
346 parental consent; (9) the minor shall be deemed to be over eighteen
347 years of age for purposes of securing an operator's license under
348 section 14-36 of the 2008 supplement to the general statutes, and a
349 marriage license under subsection (b) of section 46b-30 or a civil union
350 license under section 46b-38jj without parental consent; (10) the minor
351 shall be deemed to be over eighteen years of age for purposes of
352 registering a motor vehicle under section 14-12; (11) the parents of the
353 minor shall no longer be the guardians of the minor under section 45a-
354 606; (12) the parents of a minor shall be relieved of any obligations
355 respecting such minor's school attendance under section 10-184; (13)
356 the parents shall be relieved of all obligation to support the minor; (14)
357 the minor shall be emancipated for the purposes of parental liability

358 for such minor's acts under section 52-572; (15) the minor may execute
359 releases in such minor's own name under section 14-118; and (16) the
360 minor may enlist in the armed forces of the United States without
361 parental consent.

362 Sec. 7. (NEW) (*Effective January 1, 2010*) (a) There shall be established
363 a pretrial program for accelerated rehabilitation of a child accused of a
364 delinquent act that is not a serious juvenile offense as described in
365 section 46b-120 of the 2008 supplement to the general statutes, as
366 amended by this act.

367 (b) The court may invoke the pretrial program for accelerated
368 rehabilitation of a child on application of a child who (1) the court
369 believes will probably not offend in the future, (2) has no previous
370 record of conviction as a delinquent, and (3) states under oath, in open
371 court or before a person designated by the clerk and duly authorized
372 to administer oaths, under the penalties of perjury, that such child has
373 never had such program invoked in the child's behalf, provided the
374 child shall agree thereto. The court may not invoke such program
375 unless notice has been given by the child to the victim, if any, of such
376 delinquent act by registered or certified mail and such victim has been
377 provided an opportunity to be heard. In determining whether to grant
378 an application under this section with respect to a child who has
379 previously been the subject of a delinquency or criminal proceeding,
380 the court shall have access to any probation records of such child and
381 may consider the nature and circumstances of any ending or prior
382 delinquent act or crime with which such child has been charged.

383 (c) This section shall not be applicable to a child charged with a
384 violation of section 21a-267 or 21a-279 of the general statutes who (1) is
385 eligible for the community service program, as established by section 8
386 of this act, or (2) has previously had the community service program,
387 as established by section 8 of this act, invoked in such child's behalf.

388 (d) A child who enters the program established pursuant to
389 subsection (a) of this section shall agree to the tolling of any statute of
390 limitations with respect to such crime and to a waiver of the right to a

391 speedy trial. Any such child shall appear in court and shall, under such
392 conditions as the court orders, be placed under the accelerated
393 rehabilitation supervision of a juvenile probation officer. The period of
394 such accelerated rehabilitation supervision shall not exceed one year.
395 When determining conditions for a child entering such program, the
396 court may consider ordering the child to perform community service.
397 If the child is charged with a violation of section 46a-58 or 53-37a of the
398 2008 supplement to the general statutes or section 53a-181j, 53a-181k or
399 53a-181l of the general statutes, the court may order that, as a
400 condition of participation in such accelerated rehabilitation program,
401 the child participate in a hate crimes diversion program as provided in
402 subsection (e) of this section. If a child is charged with a violation of
403 section 53-247 of the general statutes, the court may order that, as a
404 condition of participation in such accelerated rehabilitation program,
405 the child undergo psychiatric or psychological counseling or
406 participate in animal cruelty prevention and education program
407 provided such a program exists and is available to the child.

408 (e) The Court Support Services Division of the judicial branch shall
409 contract with service providers, develop standards and oversee
410 appropriate hate crimes diversion programs to meet the requirements
411 of this section. The hate crimes diversion program shall consist of an
412 educational program and supervised community service.

413 (f) If a child supervised by a juvenile probation officer satisfactorily
414 completes such child's period of accelerated rehabilitation supervision,
415 the court, on finding such satisfactory completion, shall dismiss such
416 charges. The clerk of the court shall notify the child and parent or
417 guardian of such dismissal. On dismissal, all records of such charges
418 shall be immediately ordered erased. A decision of the court
419 determining that a child has not successfully completed such child's
420 period of accelerated rehabilitation supervision or terminating the
421 participation of a child in such program shall not be a final judgment
422 for purposes of appeal.

423 (g) If the juvenile probation officer reports to the court that such

424 child did not successfully complete the accelerated rehabilitation
425 program or such child is no longer amenable to participation in such
426 program, the court shall terminate the program, enter a plea of not
427 guilty for such child and immediately place the case on the regular
428 juvenile court docket for delinquency matters.

429 Sec. 8. (NEW) (*Effective January 1, 2010*) (a) There shall be established
430 a pretrial community service program for children charged with a
431 violation of section 21a-267 or 21a-279 of the general statutes who have
432 not previously been convicted of a delinquent act based on a violation
433 of section 21a-267 or 21a-277 of the general statutes, section 21a-278 of
434 the 2008 supplement to the general statutes or section 21a-279 of the
435 general statutes. If any such child applies for participation in such
436 program and if such child has not previously been placed in the
437 community service program, the court may grant such application,
438 suspend prosecution of the child and place such child in such
439 program.

440 (b) A child for whom prosecution is suspended and who is placed in
441 the community service program, pursuant to subsection (a) of this
442 section, shall agree to the tolling of the statute of limitations with
443 respect to such crime and to a waiver of such juvenile's right to a
444 speedy trial. A community service program established under this
445 section for a child for whom prosecution is suspended shall include a
446 drug education component and random drug testing. Such child's
447 participation in a program under a suspended prosecution shall be
448 supervised by a juvenile probation officer. If such child satisfactorily
449 completes the community service program to which such child was
450 assigned under a suspended prosecution, the court, on reviewing the
451 report of the juvenile probation officer of such child's participation in
452 such program and on finding satisfactory completion of the
453 community service program to which the child was assigned, shall
454 dismiss the charges. On dismissal, all records of such charges shall be
455 immediately ordered erased. A decision of the court determining that a
456 child has not successfully completed such child's community service
457 program or terminating the participation of a child in such program

458 shall not be a final judgment for purposes of appeal.

459 (c) If the juvenile probation officer reports to the court that such
460 child did not successfully complete the program of community service
461 to which such child was assigned or such child is no longer amenable
462 to participation in such program, the court shall enter a plea of not
463 guilty for such child and immediately place the case on the regular
464 juvenile court docket for delinquency matters.

465 (d) The period of participation in a community service program
466 shall not exceed one year and the number of hours of community
467 service ordered shall not exceed fifty.

468 Sec. 9. (NEW) (*Effective January 1, 2010*) (a) There shall be established
469 in the juvenile court a program of mediation. The court may refer a
470 child accused of a delinquent act to mediation for resolution. For the
471 purposes of this section, "mediation" means the process in which two
472 or more persons to a dispute agree to meet with an impartial third
473 party approved by the court to work toward resolution of the dispute
474 that is satisfactory to all parties in accordance with principles of
475 mediation commonly used in labor management disputes. A child's
476 participation in the mediation program shall be supervised by a
477 juvenile probation officer.

478 (b) Upon receipt of a report from the mediation program that
479 mediation was successful, the court shall dismiss the charges against
480 the child. On dismissal, all records of such charges shall be
481 immediately ordered erased.

482 (c) If mediation is unsuccessful or the child alleged to be a
483 delinquent is no longer amenable to participation in such program or
484 fails to comply with the terms of any mediation agreement, the
485 juvenile probation officer shall notify the court and the court shall
486 terminate the program, enter a plea of not guilty for such child and
487 immediately place the case on the regular juvenile court docket for
488 delinquency matters.

489 (d) A decision of the court determining that a child has not
490 successfully completed a mediation program or terminating the
491 participation of a child in such program shall not be a final judgment
492 for purposes of appeal.

493 (e) Mediation services in cases referred by the court to the program
494 of mediation may be provided by private agencies under contract with
495 the Court Support Services Division of the judicial branch.

496 Sec. 10. (NEW) (*Effective January 1, 2010*) (a) Upon the motion of any
497 party or the court on its own motion, the case of any youth, except a
498 youth who has been transferred to the regular criminal docket
499 pursuant to section 46b-127 of the 2008 supplement to the general
500 statutes, may, prior to trial or a guilty plea being entered, be
501 transferred from the youthful offender docket, regular criminal docket
502 or motor vehicle docket to the docket for juvenile matters if, after a
503 hearing considering the facts and circumstances of the case and the
504 prior history of the youth, the court determines that the programs and
505 services available pursuant to a proceeding in the superior court for
506 juvenile matters would more appropriately address the needs of the
507 youth and that the youth and the community will be better served by
508 treating the youth as a juvenile. Upon ordering such transfer, the court
509 shall vacate any pleas entered in the matter and the youth shall be
510 advised of his or her rights and enter pleas on the docket for juvenile
511 matters in the jurisdiction where he or she resides and shall be subject
512 to prosecution as a delinquent child. The decision of the court on the
513 transfer of a youth's case from the youthful offender docket, regular
514 criminal docket or motor vehicle docket shall not be a final judgment
515 for purposes of appeal.

516 (b) A conviction as a delinquent after a transfer to the docket for
517 juvenile matters does not negate any penalty mandated to be imposed
518 by the Department of Motor Vehicles. After such transfer, if a youth is
519 convicted of an offense, violation or infraction that requires a license
520 denial, revocation, suspension or other legal penalty or administrative
521 sanction from the Department of Motor Vehicles, the clerk of the

522 superior court for juvenile matters or the clerk's designee shall
 523 promptly provide notice of the youth's record of conviction as a
 524 delinquent to the Department of Motor Vehicles.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	46b-120
Sec. 2	<i>January 1, 2010</i>	46b-133
Sec. 3	<i>January 1, 2010</i>	46b-140(b)
Sec. 4	<i>January 1, 2010</i>	46b-140(g)
Sec. 5	<i>January 1, 2010</i>	46b-146
Sec. 6	<i>January 1, 2010</i>	46b-150d
Sec. 7	<i>January 1, 2010</i>	New section
Sec. 8	<i>January 1, 2010</i>	New section
Sec. 9	<i>January 1, 2010</i>	New section
Sec. 10	<i>January 1, 2010</i>	New section

Statement of Legislative Commissioners:

In subparagraph (C) of subdivision (1) of section 1, in the phrase "to such a delinquency proceeding" the word "such" was bracketed to conform to the original intent of the bill.

KID *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Children & Families, Dept.	GF - Savings	Potential	Potential
Judicial Dept.	GF - See Below	None	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill eliminates some crimes for which a juvenile can be designated as a serious juvenile offender. The Department of Children and Families would incur savings to the extent that this results in shortened terms of commitment (generally a maximum of 18 months, instead of 4 years) of certain delinquents, and thus reduced expenditures for out-of-home, community-based or parole services. It is anticipated that a delinquent's commitment based upon one of the four eliminated offenses would be an infrequent occurrence.

The bill establishes three diversionary programs for juveniles, and modifies and expands vocational probation options. These provisions implement the policy change enacted by PA 07-4 of the June Special Session, which raises the age of juvenile jurisdiction effective January 1, 2010. The provisions of the bill would not alter the fiscal impact of the underlying policy change reflected in the fiscal note on PA 07-4, JSS.¹

The bill also contains minor, technical and clarifying changes to provisions of PA 07-4, JSS, which have no fiscal impact.

¹ The fiscal note indicated an annualized, statewide cost of \$100 million in FY 12. Included within this overall estimate is more than \$13 million in community-based contracts to serve juveniles and \$7 million for additional probation staffing.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 337*****AN ACT CONCERNING JUVENILE JUSTICE.*****SUMMARY:**

This bill:

1. revises the definition of delinquent offense and narrows the definition of serious juvenile offense;
2. makes it a delinquent act for a child to willfully fail to appear in juvenile court;
3. eliminates juvenile court jurisdiction over matters involving emancipated minors;
4. allows police officers to release arrested children into the child's own custody and makes it a delinquent act for a child to willfully fail to appear in juvenile court;
5. limits the use of pretrial detention;
6. adds violating conditions of a suspended detention order as a basis for detaining a child awaiting trial;
7. establishes pretrial diversion programs for children accused of certain offenses;
8. allows Superior Court judges to transfer cases involving 16- and 17-year old youths from the adult criminal, youthful offender, and motor vehicle dockets to juvenile court when appropriate;
9. modifies and expands vocational probation options;

10. expands the availability of record erasure for children adjudicated (a) delinquent or (b) a child in a family with service needs (FWSN – truants, runaways, or children beyond control of parents or school officials), but delays, from 16 to 18, the age youths must reach before becoming entitled to court consideration of an erasure petition; and
11. eliminates a mandate that juvenile court judges impose a statutory fine on youngsters convicted as delinquents for unlawfully possessing alcohol that would otherwise go into effect January 1, 2010.

EFFECTIVE DATE: January 1, 2010

§ 1 — DELINQUENCY

Children Under Age 16

The bill allows children under age 16 to be convicted as delinquent if they:

1. violated any federal or state law or municipal or local ordinance other than an ordinance regulating the behavior of a FWSN child;
2. willfully failed to appear in court in response to a summons or at any other court hearing of which they had notice;
3. violated a court order, except an order directed at a FWSN child; or
4. violated court-ordered conditions of probation.

Current law covers federal, state, and municipal or local ordinance violations, other than ordinances regulating the conduct of FWSN children. It does not make failure to appear a basis for a finding of delinquency. And legislation enacted in 2007 eliminated juvenile court jurisdiction over municipal or local ordinance violations beginning January 1, 2010.

Youths Age 16 and 17

Under the bill, beginning January 1, 2010, 16- and 17-year olds may also be convicted as delinquent for any of the above reasons, except that infractions, violations, motor vehicle offenses or violations, or municipal or local ordinance violations must be handled on adult court dockets unless the court determines that it is appropriate to adjudicate the matter in juvenile court. Under the law currently scheduled to go into effect January 1, 2010, only infractions or violations that are subject to centralized infraction bureau procedures and motor vehicle violations for which a term of imprisonment may be imposed will be excluded from juvenile court.

§ 1 — SERIOUS JUVENILE OFFENSE

The bill excludes some crimes which can currently form the basis for a serious juvenile offender designation. By law, children convicted as serious juvenile offenders are subject to supervision or detention for up to four years, while supervision of other juvenile offenders is generally limited to 18 months (with one possible extension). And people with serious juvenile offense convictions are barred from possessing firearms and electronic defense weapons.

The offenses that are eliminated are:

1. that portion of the risk of injury statute involving placing at risk or impairing the health or morals of a person under age 16 (CGS § 53-21(a)(1)),
2. extortionate credit transactions (CGS §§ 53-390 through 392),
3. 1st degree unlawful restraint (CGS § 53a-95), and
4. 2nd degree hindering prosecution (CGS § 53a-166).

§ 2 — RELEASING CHILDREN INTO THEIR OWN CUSTODY

Currently, police officers can either release children who have been arrested into the custody of a parent, guardian, suitable person, or

agency or turn them over to a juvenile detention center. The bill also allows them to release a child into the child's own custody. When they do so, the bill requires that they make reasonable efforts to serve a written complaint and summons on the parent, guardian, suitable person, or agency before the court date listed on the child's summons.

It makes it a delinquent act for a child to willfully fail to appear in court in response to the summons and authorizes the court to order the child taken into custody.

§ 2 — PRETRIAL DETENTION

Currently, a court may order pretrial detention when it finds probable cause to believe that the arrested child committed the offense and there is:

1. a strong probability that he or she will run away or commit or attempt to commit other offenses before court hearing or disposition,
2. probable cause to believe that the child's continued residence at home will not safeguard the child's or community's best interest because of the serious and dangerous nature of the acts he or she is accused of committing,
3. a need to hold the child to assure his or her appearance before the court in view of previous failure to respond to court process, or
4. a need to hold the child for another jurisdiction.

The bill makes violating a condition of a suspended detention order another ground for ordering pretrial detention. And it requires courts to find that those held because of the serious nature of the charges pose a risk to themselves or the community, rather than that release will not safeguard the best interests of the child or community.

It precludes courts from ordering pretrial detention unless the court finds that there is no less restrictive alternative available.

Under current law, detention supervisors may release children from pretrial detention to their parent's or other suitable person or agency's custody unless the child has been arrested for a serious juvenile offense. The bill precludes pretrial release when an order not to release is noted on the take-into-custody order, arrest warrant, or order to detain.

§§ 7, 8, & 9 — PRETRIAL DIVERSION PROGRAMS

Accelerated Rehabilitation (AR)

The bill establishes a separate pretrial AR program for children accused of delinquent acts that are not classified as serious juvenile offenses, which is similar to the AR program they may qualify for in adult court. The court may permit children to participate who (1) it believes will probably not offend again, (2) have no previous delinquency convictions, and (3) state under penalty of perjury that they have never used the program before. The child must use registered or certified mail to notify the victim that he or she has applied for the program and the court must give victims an opportunity to be heard.

Children with histories of previous court involvement (short of convictions) may be granted permission to use AR; the court making the decision must have access to the child's probation records and may consider the nature and circumstances of any pending or prior delinquent act or crime with which the child has been charged.

Children are ineligible for AR if they (1) are eligible for the community service program the bill establishes for youngsters who have been charged with certain drug offenses or (2) have previously participated in that program.

Children who enter the AR program must agree to the tolling of the statute of limitations and waive their speedy trial rights.

Among other things, court may condition participation on the child:

1. performing community service,

2. participating in a hate crimes diversion program if charged with commission of a hate crime, or
3. undergoing psychiatric or psychological counseling or participating in an animal cruelty prevention and education program if charged with animal cruelty.

The bill directs the Judicial Branch's Court Support Services Division (CSSD) to contract for services, develop standards, and oversee hate crimes diversion programs. The latter must include an educational program and supervised community service.

Children in the AR program are supervised by juvenile probation officers for one year. When the court is notified that the child has successfully completed the program, the court must dismiss the charges and immediately order that the records be erased.

If the court is notified that the child has not successfully completed the program or is not amenable to completing the program, it must enter a plea of not guilty and immediately place the case on the regular delinquency docket. This action is not a final judgment for purposes of appeal.

Pretrial Community Service Program

The bill creates a pretrial community service program for children charged with specified drug offenses who have no prior delinquency convictions for possessing or selling drugs and have not previously participated in the community service program. As with the AR program, participating children must agree to toll the statute of limitations and waive their speedy trial rights.

The program must include a drug education component and random drug testing and the child must be supervised by a juvenile probation officer. The participation period cannot exceed one year and hours of community service cannot exceed 50.

The court must dismiss the charges and immediately order the

child's records to be erased when notified of successful completion. If notified that the child has not successfully completed the program or is no longer amenable to it, the court must enter a not guilty plea and immediately place the case on the delinquency docket. This action is not a final judgment for purposes of appeal.

Mediation

The bill also establishes a juvenile court mediation program for children accused of committing delinquent acts. It defines "mediation" as a process in which two or more persons to a dispute agree to meet with an impartial third party approved by the court to work toward resolution of the dispute that is satisfactory to all parties in accordance with principles of mediation commonly used in labor management disputes. A juvenile probation officer must supervise children participating in the program. CSSD may contract with private agencies for mediation services.

The court must dismiss the charges and order immediate record erasure when notified that the mediation has been successful. When notified that it has not been successful, the court must enter a plea of not guilty and immediately place the case on the delinquency docket. This action is not a final judgment for purposes of appeal.

§ 10 — TRANSFERRING CASES BETWEEN DOCKETS

Except in cases where adult prosecution is required by law (e.g., when a class A or B felony is charged), the bill allows judges to transfer cases involving 16- and 17-year-old defendants from the youthful offender, regular criminal, or motor vehicle dockets to juvenile court. The transfer must occur prior to trial or entry of a guilty plea and can be initiated by a motion filed by any party or the court on its own authority.

Before ruling on a transfer motion, the court must hold a hearing to consider the facts and circumstances of the case and the youth's prior history. It may order the transfer if it determines that the (1) programs and services available in juvenile court would more appropriately

address the youth's needs and (2) youth and community will be better served by treating the youth as a juvenile. If it orders a transfer, the court must vacate any pleas already entered. The youth must be advised of his or her rights and enter pleas in the juvenile court in the jurisdiction where he or she resides (it is unclear where cases involving youth who reside out of state would be transferred) and be prosecuted as a delinquent child. Under the bill, a decision granting or denying a transfer is not immediately appealable.

The bill also specifies that a conviction as a delinquent after the transfer does not negate any mandatory Department of Motor Vehicles (DMV) penalty. Juvenile court clerks or their designees must promptly notify DMV when a youth is convicted of an offense, violation, or infraction that requires DMV to deny, revoke, or suspend a driver's license or requires the department to impose other legal penalties or administrative sanctions.

§ 4 — EXPANDING CONDITIONS OF JUVENILE PROBATION

Current law allows juvenile court judges to place delinquent or FWSN children on vocational probation if they are at least 14 years old and would not benefit from continued school attendance. The bill, instead, allows judges to order work-study or employment with or without continued school attendance as a condition of probation or supervision for these youngsters.

§ 5 — ERASING JUVENILE COURT RECORDS

Under current law, Superior Court judges must grant petitions to erase police and court records concerning delinquent or FWSN children who:

1. are at least 16 years old,
2. have been discharged from court or Department of Children and Families custody or supervision for at least two years (four years if convicted of a serious juvenile offense), and
3. have not been the subject of a subsequent juvenile proceeding or

found guilty of a crime.

Under the bill, erasure petitions must be granted when the youngster:

1. is at least 18 years old;
2. has been discharged under the same conditions and for the same period described above;
3. has no pending juvenile or adult criminal proceeding; and
4. since discharge, has not been convicted of a felony or misdemeanor or of a delinquent act that would constitute a felony or misdemeanor if committed by an adult.

The bill also authorizes courts to hold hearings and grant record erasure petitions earlier for good cause.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference
Yea 10 Nay 0 (03/06/2008)

Judiciary Committee

Joint Favorable
Yea 41 Nay 2 (03/24/2008)